

The Role of Non-Governmental Organizations in the Fields of Human Rights and the Environment and the Inter-Relationship Between Experts and Practitioners

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Introduction

After having listened to all the expert interventions during the last two days I have been even more convinced, than I was before, that we stand at a crossroad in the search for solutions to save the planet. Some of the perspectives that you have outlined in your broad exposures are far from positive in the sense that we really don't know how the international society is going to react to the present deteriorating situation on global environment.

The UNCED Conference in Rio de Janeiro, Brazil in June will be essential to that matter, but we all know that there is a deep gap between the desires of the third world countries, backed by many environmental NGOs in the north and south, and the willingness of the industrial countries to agree to measures that really put us on the right track to sustainable development and environmental protection.

We have dealt in depth with environmental law and human rights law, particularly the issue of the right to a sound and healthy environment as a Human Right.

We have also dealt with the issue of whether or not there exist a right for future generations to the environment, or if rights, in the context of international law, are something that can only be exercised by present generations.

The legal experts on these issues are not in agreement whether or not such a right exists. The theories by Professor Edith Brown Weiss regarding intergenerational equity are very interesting, although they might be questioned by many of the present legal experts.

Apart from the majority of you I am not a lawyer and I have not dealt in depth with all these legal complex issues on a daily basis.

Notwithstanding this inadequacy, I would like to express an opinion, that I believe that most non-experts like me and other people engaged in NGO work on Human Rights and Environment, have adopted during the last years, as a result of the growing awareness of the critical situation that we encounter.

We believe that the issue of a right to the environment first of all is a moral issue and not primarily a juridical issue.

The evolution of both environmental law and human rights law, as well as other areas of international jurisdiction, indicates clearly that there is an implicit intention of protection of the human being connected to all international instruments adopted in these fields.

This intention of protection of present and future generations in international environmental law has its bearing from human moral considerations and the instruments for exercising these intentions of protection of the human being are the laws! Not the other way around!

Subsequently, based on the knowledge we have adopted regarding the present deteriorating state of natural resources, global warming, accelerated exploitation, population growth, we have a moral obligation to protect, preserve and transfer to next generations a habitable planet!

In order to achieve this there is a need of a number of measures, amongst which new laws on the protection of the environment; e.g., *The New Earth Charter* is one among many other important measures.

In this respect the lawyers and all other experts on environmental issues and Human Rights are important. But the lawyers and experts cannot accomplish everything themselves, and the laws adopted will not solve all problems.

There is a need of many other measures including participation by all people to change their behaviour and increase their awareness. What we need is a mobilization of all forces available, if not at least the organized community of NGOs.

Therefore, in my opinion, there exists a symbiotic relationship between the experts and practitioners which, fully accepted and understood, could enforce the implementation and promote law-making efforts to the benefit of all.

Unfortunately there has been a tendency amongst lawyers and experts, and now I am referring directly to you as a collective representative group, to neglect the necessity to mobilize public awareness and public participation in order to achieve political decisions in a direction that satisfies the demands that come from your findings. Very often your scientific findings correspond to public awareness of existing problems, but there is a lack of a coherent and comprehensive approach to mobilize the support needed to reach significant results. At least in a short time perspective, I don't know if this is due to the isolation that academics sometimes

tend to revert to. Maybe it is a natural phenomenon that experts talk to experts and others must find their own ways of communication?

In any case, I am very anxious to appeal to you as a group of distinguished experts on the highest level to collaborate extensively with practitioners, i.e., those people who could be your instruments to disseminate and implement the results of your work which corresponds to established values amongst the population.

The need to do something, and to do it urgently, about the desperately deteriorating situation on environment is becoming common conviction among all people.

The political pressure that experts and practitioners together can put on Governments will be much harder and the likelihood that we together can increase public awareness and public participation to achieve better results is obvious.

To summarize the above: I surely believe that you as lawyers and other experts should gain a lot more from the close collaboration with practitioners.

The Role of NGOs

There has been some criticism towards the effectiveness of NGOs, especially the Latin-American NGOs, who are considered to be disoriented, ineffective, introverted and lacking proper strength and organization. The legal experts seem to believe that NGO involvement in many respects is useless due to the lack of expertise and strength needed to solve important problems.

In some respects this might be true and change is essential to increase the image of Latin-American NGOs, not at least in the light of future donor relations and the need of co-operation, networking and effectiveness in implementation capacity.

But in many respects, above all in Human Rights work, the criticism is highly unjustified, especially when looking back to the work carried out by these NGOs during the many years of military dictatorships in a number of Latin-American countries and in countries with constitutional democratic systems, but where violations of human rights occur on a massive scale.

I don't know enough about the numerous environmental organizations in Latin-America, which seem to have had an endemic evolution in recent years, to have a clear opinion on the influence and importance of these organizations.

In the legal and experts circles there is however a tendency to underestimate the importance of practical implementation, most often carried out by dedicated persons working on a voluntary base in various NGOs.

For this reason I would like to give you two examples to legitimate the role of the NGOs.

One example is from the European scene and the other from Latin America.

During the last decade the increase of public xenophobia in many European countries had reached such heights that we are reminded of the mass persecutions of the Jews and non-aryans, and political dissidents, from the 1930s, although this time the subjects of persecution and resentment are a collective set of foreign immigrants from non-European countries who have turned to Europe in order to escape persecution, war and fatigue from 3rd world problems.

Despite a huge number of international and regional legal instruments, often implemented in domestic law, on protection of asylum-seekers and refugees under the principle of non-refoulement, and the right to asylum under the 1951 U.N. Convention on Refugees and the 1967 Protocol thereto, the deterioration of asylum policy in Western European countries during the 1980s has been a very serious and negative development.

All countries have tightened their asylum policies to a maximum, in order to decrease the influx of new asylum-seekers of non-European, or east and south-European origin, leading to massive human tragedies and a deterioration in humanitarian norms and practices.

The laws have been important to facilitate protection for many of these peoples but in many, many cases the laws, and the efforts made by lawyers, have been inadequate to provide necessary protection.

The States have simply not been ready to live up to their obligations according to international agreements. Strictly national interests have been more important for them, than the fulfillment of legal obligations or the execution of the principle of international solidarity.

To counter this negative development we have witnessed an outstanding mobilization of the European NGO community, within the framework of the European Consultation on Refugees and Exiles (ECRE), which have been very successful in terms of promoting the right of asylum within various European fora, *inter alia*, the Council of Europe and others to remind States of their obligations under relevant international instruments.

Without the mobilization and the efforts made by the European NGOs the situation for asylum-seekers and refugees in Europe would have been much worse than it actually is. Despite this the situation is much worse than it should be allowed to be with reference to the legal obligations adopted by the States.

However, the legal provisions have not been enough to uphold satisfying standards provided for in the international instruments when Governments have been confronted with unprecedented events. The national interest has taken over.

Thanks only to the mobilization of the NGO community some safeguards have been preserved in law and practice which allow to say that Europe still has an asylum policy worthy of recognition.

The other example on NGO importance I would like to give you is from Latin-America, namely from Chile.

In the Quinquém Valley in the South of Chile an indian tribe, named Pehuenches of the Mapuche group, has lived for many generations. The area was never inhabited by the Spanish and has always been considered as "Mapuche-land".

Some years ago a large Chilean private forest exploiting Company "bought" a huge part of land from the military government and legalized the property at a Chilean court. The indians were obviously unaware of the significance of the act, and for that matter nothing happened in a number of years so the indians just continued to live there as they always had done.

In the meanwhile the Company exploited other forestal areas of their property with good yield. The stockowners were happy and urged the Company leadership to gain more.

Suddenly the Company decided to exploit the valley where 26 Pehuenshe families lived and they obliged the indians to leave the area. When the surprised indians refused to leave the Company asked for police assistance to evict the indians from the land.

It was fully clear that the legal owners of the land, according to Chilean domestic law, was the multi-national Forest Company and not the indians.

Subsequently there were no legal recourses to the advantage of the indians.

The land belonged to the Company and the Company was not willing to abstain from its legal right to exploit the valley.

After the mobilization of the local population the case became known, with the help of the media, to the Chilean and, after a while, to the international NGO-society.

The reactions from a number of national and international NGO-groups were furious and forced the Government to start negotiations with the Company.

After a long time of negotiations, including the governmental threat to expropriate the land, an agreement was reached in which the Government paid an outstanding amount of money to the Company for the "future loss of expected yields" and the Company abstained from the right to the land.

This happy solution would never have been obtained without the enormous mobilization of public awareness and reaction that came about, which principally was achieved by national and international NGOs.

It is furthermore interesting to note that this issue, which was primarily interpreted as a human rights issue (the inherited right of the indians to remain on the land where all previous generations had lived), which in no way could be solved with legal measures, during the exposure to the national and international scene was converted to an environmental issue of international importance: namely, the preservation of the earth's oldest forest accesses!

The interlink between environmental protection and human rights protection suddenly became obvious for all parties concerned and this happened outside the legal context. It was the moral conscience for justice and rights amongst ordinary people that solved the case by reaction and mobilization in an issue where the lawyers, and the legal system, didn't have an answer.

It is also interesting to note that this perhaps was the first time where environmental organizations played a more important role in a Human Rights issue than the human rights organizations themselves.

In all circumstances the NGOs played a much more important role than the lawyers in the solving of this particular case. (In order not to be misunderstood I would like to emphasize that the opposite situation has more often occurred in the past and will most certainly occur in the future). These two examples show that the importance of NGO existence and action is essential to solve human problems and that co-operation between experts and practitioners is inevitable for successful results.

Concluding from these experiences the role of the NGOs could be summarized, *inter alia*, in the following way:

NGOs can play an essential role in the evolution and implementation of human rights and environment laws, and in solving up-coming human rights and environmental problems by the following measures:

- providing protection and assistance to vulnerable groups in the fields of human rights and environment,
- raising and promoting public awareness to the problems in these fields of action including participation in remedy-finding activities,
- serving as pressure-groups on Governments, Private Companies and the International Community when appropriate,
- implementing programs of action with the purpose of finding solutions to human rights and environmental problems,
- fundraising activities in support of human rights and environmental activities at home or abroad.

The Swedish NGO-Fund for Human Rights

I would like to inform you of a recently established Fund for Human Rights, which I have had the privilege to prepare on behalf of six Swedish Humanitarian Agencies, namely the Swedish Red Cross, Save The Children, the Swedish Section of Amnesty International, Diakonia, the Lutheran Aid and the Swedish Church Mission.

This new Fund will operate from a secretariat in Stockholm, Sweden with the purpose to fund human rights activities in the 3rd world.

Another objective of the Fund is to promote and disseminate knowledge of human rights law and international humanitarian law to the Swedish public.

In the funding operations three objectives have been adopted:

- institutional support to a few number of Human Rights Agencies in different continents to enable them to strengthen their capabilities to implement projects and carry out protection activities. This objective has been adopted as a reaction to the past negligence of donors to the need of institutional support, which is essential as a tool to efficient implementation of projects in the Human Rights field.

- financial support to human rights groups or activists at local level, mainly in the form of project-oriented funding.

- participating in activities such as net-working, organization of seminars, providing experts in legal and other matters etc. The idea is that the Fund, contrary to many other funding institutions, wants to play a participating role in the field and not only be a passive funder.

The secretariat of this new fund was set up by the 1st of January 1992. A Director, two professional officers and one administrative assistant are now in the initial stage of planning and preparing the future activities in collaboration with the Board, which consists of the respective Secretary-Generals of the six sponsoring Agencies.

International Projects of Research on Human Development (IPREHUD)

IPREHUD is a newly established Institute based in Sweden and Chile with the purpose to promote cooperation between NGOs in the North and the South in the fields of Human Rights, Development and Environment.

Some of the problems facing NGOs in the South have been mentioned at this Seminar and some criticism has been expressed over the efficiency, or lack of such, and lack of real influence, that NGOs have demonstrated. I have contested this criticism above, but of course there is some substance to these allegations.

For that reason it might be interesting to note that the objectives of IPREHUD are just in the direction to assist NGOs to overcome these problems, but also to serve as a resource base for NGOs in various fields of action on a consultative basis.

As consultants, and often as implementors, we are carrying out a number of activities on behalf of, or in collaboration with, NGOs in Sweden and in Latin America, i.e.:

- research projects,
- planning and implementing of projects,

- evaluation of projects and the use of funds,
- organization of seminars, round tables and campaigns etc.,
- counselling and advice services,
- net-working and linking between donors and recipients.

In summary: we are supporting NGOs in tasks they have difficulties in carrying out themselves due to lack of time, lack of adequate trained staff or experience, insufficient staff resources, or ethical problems, e.g., evaluation of their own projects.

Some examples of projects we have carried out during the last three years or are working on at the moment:

- On behalf of a huge number of Swedish NGOs: The outlining and implementation of a nation-wide campaign to counter xenophobic tendencies in Swedish society (1988/89);

- On behalf of the Swedish Red Cross: Research and fulfilment of a background document on terrorism and the phenomenon on hostage-taking, including rehabilitation efforts of victims, to the World Conference on Wartime Medical Services in Stockholm (1989);

- On behalf of the Swedish Government: A study on the conditions, problems and challenges for returning exiles from Sweden to Chile (1989/90);

- On behalf of six Swedish Humanitarian Agencies: Background research and implementation of the establishment of a Swedish NGO-Fund for Human Rights (1989/91) (see above);

- Outlining and implementation of a Seminar on Human Rights, Development and Environment in Latin America in collaboration with Wallenberg Institut of the University of Lund, Sweden; the Green College, Colombia; the Center of Alternative Development (CEPAUR), Chile; and human rights groups in Latin America. The Seminar is planned to be a follow-up Seminar to the UNCED Conference in Rio, probably in the spring of 1993;

- Participation in the outlining and implementation of an assistance program for returning exiles in Chile in collaboration with the Swedish Refugee Council and Chilean NGOs;

- On behalf of the Swedish Red Cross: Background research and organization of a Round-Table on International Arms Trade (1992/93);

- Participation in the outlining of a new State system for reception of refugees and asylum-seekers in Sweden (1992).

A number of other activities are under discussion while the list is not complete, but can serve as an example of the work carried out by IPREHUD in Sweden and in Latin America.

The role of NGOs will continue to be important in all fields discussed at this Seminar.

We believe that a dialogue and an exchange of ideas and direct participation in activities aiming to strengthen NGOs in both the North and the South are important issues during the next decade.

IPREHUD is willing to play a role in this field and we believe that our background from European and Latin American NGO work can be of benefit to the NGO development in both continents.